IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

THE UNITED STATES OF AMERICA, *ex rel.* DONALD GALE,	)	Case No. 1:10-CV-0127
Plaintiff,	)	Judge James S. Gwin
vs.	)	
OMNICARE, INC.,	)	
Defendant.	)	

MOTION TO EXCLUDE THE EXPERT
REPORT OF DR. MOHAN RAO, PH.D

Relator hereby moves to exclude the report submitted by Defendant's expert, Dr. Mohan Rao, Ph.D. Dr. Rao purports to apply principles of market-based evaluation to assess whether Omnicare's *per diem* contracts were priced at fair market value, even though controlling law renders such analysis inapplicable to this case. Because Dr. Rao does not employ methods that may be reliably applied to the case, his report should be excluded under *Daubert v. Merrell Dow Pharms., Inc.*, 509 U.S. 579 (1993) and Federal Rule of Evidence 702. In addition, Dr. Rao's report ignores the law and facts governing this case, in the same manner as has Omnicare, and without adding relevant economic analysis. Further, Dr. Rao focuses on issues that are either not related to this case or irrelevant as a matter of law. The report should thus also be excluded because it fails to satisfy the relevancy requirements of Rules 401 and 402, as well as the Rule 403's balancing test.

Relator's supporting memorandum is attached.

DATED: August 21, 2013

Respectfully submitted,

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By: */s/ Rick Morgan*

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CERTIFICATE OF SERVICE

A true and correct copy of the foregoing was filed electronically this 21st day of August, 2013, with the U.S. District Court for the Northern District of Ohio. Notice of this filing will be sent via electronic mail to all parties who have entered an appearance by operation of the Court's electronic filing system. Parties may access this filing through the Court's ECF system.

/s/ Ross B. Brooks
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Attorney for Plaintiff and Relator Donald Gale